

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2986

Introduced by Assembly Member Leno

February 22, 2008

An act to ~~amend Section 13263~~ *add Chapter 18 (commencing with Section 14080) to Division 7 of the Water Code, relating to water quality, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2986, as amended, Leno. Waste discharge requirements.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements *for publicly owned treatment works and other dischargers* in accordance with the Porter-Cologne Water Quality Control Act (state act) and the federal Clean Water Act. ~~The state act authorizes the state board or a regional board to prescribe general waste discharge requirements for a category of discharges if certain requirements are met.~~

~~This bill would make a technical, nonsubstantive change in that provision,~~

Existing law, commencing the year in which funding is provided, the state board to develop a uniform overflow event report form to be used by the system owner or operator to report sanitary sewer system overflows. Existing law requires a data base on Sanitary System spill and Overflow to be developed and made available to the public.

This bill, by January 1, 2010, would require the state board and each regional board to post on their respective Internet Web sites, at a minimum, copies of specified water quality documents maintained in

their files and generated on or after January 1, 2009. The state board and each regional board would be required to post on their respective Internet Web sites additional water quality documents generated between January 1, 2006, and December 31, 2008, if they have electronic copies of those documents.

The bill would require the state board, commencing January 1, 2011, to issue annually a letter grade, as specified, for each separate sanitary sewer system, each sewage treatment plant, and each combined sewer system in the state in accordance with letter grading methodologies that the state board would be required to establish. The state board would be required, by July 1, 2009, to establish a methodology for measuring “peaking factors,” as defined, and to establish, as necessary, monitoring and reporting requirements to measure peaking factors.

The bill would require the state board, by July 1, 2010, and by July 1 of each year thereafter, to establish a list of all sewage treatment plants for which the state board makes specified findings relating to wet weather peak flows. A satellite sewer system, as defined, that discharges sewage to a sewage treatment plant that has been placed on that list would be required to install and operate flow meters for at least 3 years, as described, unless the state board or the appropriate regional board makes a specified finding regarding the satellite sewer system.

The bill would require the state board to impose fees upon owners and operators of systems covered by this bill to finance the implementation of these provisions. The state board would be required to establish a fee schedule so that the total amount of fees collected equals the amount necessary to recover costs incurred in the implementation of these provisions. The bill would require the state board to deposit the fees in the California Clean Water Act Fund, which the bill would establish in the State Treasury. The moneys in the fund would be continuously appropriated to the state board for expenditure by the state board and for allocation to the regional boards, as necessary, to implement the bill’s provisions.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Clean Water Act.

1 *SEC. 2. Chapter 18 (commencing with Section 14080) is added*
2 *to Division 7 of the Water Code, to read:*

3
4 *CHAPTER 18. PUBLIC INFORMATION, SEWER SYSTEM GRADING,*
5 *AND WET WEATHER FLOWS*
6

7 *14080. For the purposes of this chapter, all of the following*
8 *terms shall have the following meanings:*

9 *(a) "Combined sewer system" means any wastewater collection*
10 *system that conveys domestic, commercial, and industrial*
11 *wastewater and stormwater through a single-pipe collection system*
12 *to a sewage treatment plant.*

13 *(b) "Combined sewer overflow" means any overflow, spill,*
14 *release, discharge, or diversion from a combined sewer system at*
15 *a point prior to the sewage treatment plant. Combined sewer*
16 *overflows include all of the following:*

17 *(1) Overflows or releases of untreated or partially treated*
18 *wastewater that reach the waters of the United States.*

19 *(2) Overflows or releases of untreated or partially treated*
20 *wastewater that do not reach the waters of the United States.*

21 *(3) Wastewater backups into buildings or private property that*
22 *are caused by blockages or flow conditions within the*
23 *system-maintained portion of a combined sewer system.*

24 *(c) "Peaking factor" means the ratio of peak wet weather flows*
25 *in sewer lines compared to average dry weather flows in sewer*
26 *lines.*

27 *(d) "Sanitary sewer overflow" means any overflow, spill,*
28 *release, discharge, or diversion from a separate sanitary sewer*
29 *system at a point prior to the sewage treatment plant. Sanitary*
30 *sewer overflows include all of the following:*

31 *(1) Overflows or releases of untreated or partially treated*
32 *wastewater that reach the waters of the United States.*

33 *(2) Overflows or releases of untreated or partially treated*
34 *wastewater that do not reach the waters of the United States.*

35 *(3) Wastewater backups into buildings or private property that*
36 *are caused by blockages or flow conditions within the*
37 *system-maintained portion of a separate sanitary sewer system.*

38 *(e) "Sanitary sewer system" means any separate sanitary sewer*
39 *system or any combined sewer system that is a system of pipes,*
40 *pump stations, sewer lines, or other conveyances designed and*

1 *used to collect and convey sanitary sewage to a sewage treatment*
2 *plant.*

3 (f) *“Satellite sewer system” means the portion, if any, of a*
4 *sanitary sewer system that is owned or operated by an entity or*
5 *public agency other than the entity or public agency that owns and*
6 *operates the sewage treatment plant to which the sanitary sewer*
7 *system is tributary.*

8 (g) *“Secondary treatment” means a level of treatment that*
9 *complies with Section 133.102 of Title 40 of the Code of Federal*
10 *Regulations.*

11 (h) *“Separate sanitary sewer system” means any system of*
12 *pipes, pump stations, sewer lines, or other conveyances designed*
13 *and used to collect and convey sanitary sewage, separate from*
14 *stormwater, to a sewage treatment plant.*

15 (i) *“Sewage treatment plant” means any facility used for the*
16 *treatment of sewage.*

17 (j) *“Waste discharge requirements” means waste discharge*
18 *requirements prescribed pursuant to this division, including waste*
19 *discharge requirements issued in accordance with the national*
20 *pollutant discharge elimination system (NPDES) permit program.*

21 14081. (a) *By January 1, 2010, the state board and each*
22 *regional board shall post on their respective Internet Web sites,*
23 *at a minimum, copies of the following documents maintained in*
24 *their files and generated on or after January 1, 2009:*

25 (1) *All waste discharge requirements prescribed by the state*
26 *board or a regional board.*

27 (2) *Any information, data, or report required to be submitted*
28 *to the state board or a regional board pursuant to monitoring*
29 *requirements set forth in waste discharge requirements.*

30 (3) *Any report addressing inspection, including, but not limited*
31 *to, United States Environmental Protection Agency inspection*
32 *reports, of any permitted facility by the state board, a regional*
33 *board, or any contractor retained by the state board or a regional*
34 *board.*

35 (4) *Any proposed or final administrative enforcement order*
36 *issued by the state board or a regional board, including any*
37 *administrative compliance order, time schedule order, and final*
38 *administrative civil liability order, and any administrative civil*
39 *liability complaint issued by the state board or a regional board.*

1 (5) Any judicial complaint filed by or against the state board
2 or a regional board, or in which the state board or a regional
3 board is a party, relating to a violation of this division or the
4 federal Clean Water Act, and any settlement agreement, consent
5 decree, or judgment resolving any judicial case relating to a
6 violation of this division or the federal Clean Water Act in which
7 the state board or a regional board is a party.

8 (6) Any list established pursuant to subdivision (b) of Section
9 14083.

10 (b) By January 1, 2010, the state board and each regional board
11 shall post on their respective Internet Web sites copies of any of
12 the documents described in subdivision (a), generated between
13 January 1, 2006, and December 31, 2008, for which the state board
14 or a regional board has electronic copies.

15 (c) For purposes of this section, "post" means placing the
16 documents on the Internet Web site in a format that may be readily
17 downloaded by the public.

18 14082. (a) Commencing January 1, 2011, the state board shall
19 issue a letter grade of "A," "B," "C," or "F" annually for each
20 separate sewer system, each sewage treatment plant, and each
21 combined sanitary sewer system in the state.

22 (b) By July 1, 2009, the state board shall propose a letter
23 grading methodology consisting of grades "A," "B," "C," or "F"
24 for each of the following:

25 (1) Separate sanitary sewer systems.

26 (2) Sewage treatment plants.

27 (3) Combined sewer systems and their connected sewage
28 treatment plants.

29 (c) By January 1, 2010, and after providing public notice and
30 opportunity for public comment, the state board shall establish a
31 letter grading methodology for each system or plant described in
32 subdivision (b).

33 (d) The state board shall review the letter grading methodologies
34 established pursuant to subdivision (c) every five years
35 commencing with 2015, to determine whether advances in
36 wastewater collection and treatment warrant revisions to impose
37 more stringent methodologies. The state board shall provide public
38 notice and opportunity for comment prior to making changes to a
39 letter grading methodology.

1 (e) *The letter grading methodology for separate sanitary sewer*
2 *systems shall consist of the number of sanitary sewer overflows*
3 *for each 100 miles of sewer line.*

4 (f) *The letter grading methodology for sewage treatment plants*
5 *shall reflect violations of waste discharge requirements, incidents*
6 *of bypassing any portion of the treatment plants, and discharges*
7 *of any sewage that has not received secondary treatment.*

8 (g) *The letter grading system for each combined sewer system*
9 *and its connected treatment plants shall reflect the combined sewer*
10 *overflow performance and the combined sewer system's adherence*
11 *to the combined sewer overflow requirements set forth in each*
12 *system's waste discharge requirements and long-term plan, and,*
13 *as the state board deems appropriate, may reflect numeric*
14 *requirements for the number and volume of annual combined sewer*
15 *overflows.*

16 14083. (a) *By July 1, 2009, the state board shall establish a*
17 *methodology for measuring peaking factors for purposes of this*
18 *section. The state board shall also establish, as necessary,*
19 *monitoring and reporting requirements to measure peaking factors.*

20 (b) *By July 1, 2010, and by July 1 of each year thereafter, the*
21 *state board shall establish a list of all sewage treatment plants for*
22 *which the state board finds both of the following:*

23 (1) *The sewage treatment plant has experienced a peaking factor*
24 *that equals or exceeds a designation of "seven."*

25 (2) *Peak wet weather flows have either caused or contributed*
26 *to discharges in violation of waste discharge requirements from*
27 *the sewage treatment plant, or caused or contributed to a bypass*
28 *of secondary treatment during a storm that does not exceed the*
29 *rainfall depth duration frequency of 10 years and 24-hours as*
30 *posted by the Department of Water Resources.*

31 (c) *The state board shall review the designated peaking factor*
32 *established in paragraph (1) of subdivision (b) every five years*
33 *commencing with 2015, to reflect current information about the*
34 *levels of peak wet weather flow that correlate with increased risk*
35 *of sanitary sewer overflows, combined sewer overflows, or*
36 *discharges in violation of waste discharge requirements. Before*
37 *establishing the list pursuant to subdivision (b), the state board*
38 *shall provide public notice and opportunity for comment.*

39 (d) (1) *Any satellite sewer system that discharges sewage to a*
40 *sewage treatment plant that has been placed on the list pursuant*

1 *to subdivision (b) shall, within two years of that placement, install*
2 *and operate flow meters, adequate to measure all discharges to*
3 *the sewage treatment plant, for at least three years.*

4 *(2) Paragraph (1) does not apply if the state board or a regional*
5 *board finds, based on clear and convincing evidence, that the*
6 *satellite sewer system's contribution of wet weather peak flows*
7 *does not pose a risk of causing or contributing to discharges in*
8 *violation of waste discharge requirements.*

9 *(e) The satellite sewer system shall continue to operate the flow*
10 *meters required pursuant to subdivision (d) unless either the*
11 *sewage treatment plant to which it discharges is removed from the*
12 *list established pursuant to subdivision (b) or the state board or*
13 *a regional board finds, based on clear and convincing evidence,*
14 *that the satellite sewer system's additional contribution of wet*
15 *weather peak flows no longer poses a risk of causing or*
16 *contributing to discharges in violation of waste discharge*
17 *requirements. Before making that finding, the state board shall*
18 *provide public notice and opportunity for comment.*

19 *14084. (a) The state board shall impose fees upon owners and*
20 *operators of systems covered by this chapter to finance the*
21 *implementation of this chapter. The state board shall establish a*
22 *fee schedule so that the total amount of fees collected pursuant to*
23 *this section equals the amount necessary to recover costs, including*
24 *but not limited to, administrative costs, incurred in the*
25 *implementation of this chapter.*

26 *(b) The fees shall be deposited in the California Clean Water*
27 *Act Fund, which is hereby established in the State Treasury.*
28 *Notwithstanding Section 13340 of the Government Code, the money*
29 *in the fund is hereby continuously appropriated, without regard*
30 *to fiscal year, to the state board for expenditure by the state board*
31 *and for allocation to regional boards, as appropriate, to implement*
32 *this chapter.*

33 ~~SECTION 1. Section 13263 of the Water Code is amended to~~
34 ~~read:~~

35 ~~13263. (a) The regional board, after any necessary hearing,~~
36 ~~shall prescribe requirements as to the nature of any proposed~~
37 ~~discharge, existing discharge, or material change in an existing~~
38 ~~discharge, except discharges into a community sewer system, with~~
39 ~~relation to the conditions existing in the disposal area or receiving~~
40 ~~waters upon, or into which, the discharge is made or proposed.~~

~~1 The requirements shall implement any relevant water quality
2 control plans that have been adopted, and shall take into
3 consideration the beneficial uses to be protected, the water quality
4 objectives reasonably required for that purpose, other waste
5 discharges, the need to prevent nuisance, and the provisions of
6 Section 13241.~~

~~7 (b) A regional board, in prescribing requirements, need not
8 authorize the utilization of the full waste assimilation capacities
9 of the receiving waters.~~

~~10 (c) The requirements may contain a time schedule, subject to
11 revision in the discretion of the board.~~

~~12 (d) The regional board may prescribe requirements although no
13 discharge report has been filed.~~

~~14 (e) Upon application by any affected person, or on its own
15 motion, the regional board may review and revise requirements.
16 All requirements shall be reviewed periodically.~~

~~17 (f) The regional board shall notify in writing the person making
18 or proposing the discharge or the change therein of the discharge
19 requirements to be met. After receipt of the notice, the person so
20 notified shall provide adequate means to meet the requirements.~~

~~21 (g) No discharge of waste into the waters of the state, whether
22 or not the discharge is made pursuant to waste discharge
23 requirements, shall create a vested right to continue the discharge.
24 All discharges of waste into waters of the state are privileges, not
25 rights.~~

~~26 (h) The regional board may incorporate the requirements
27 prescribed pursuant to this section into a master recycling permit
28 for either a supplier or distributor, or both, of recycled water.~~

~~29 (i) The state board or a regional board may prescribe general
30 waste discharge requirements for a category of discharges if the
31 state board or that regional board finds or determines that all of
32 the following criteria apply to the discharges in that category:~~

~~33 (1) The discharges are produced by the same or similar
34 operations.~~

~~35 (2) The discharges involve the same or similar types of waste.~~

~~36 (3) The discharges require the same or similar treatment
37 standards.~~

~~38 (4) The discharges are more appropriately regulated pursuant
39 to general discharge requirements than individual discharge
40 requirements.~~

- 1 (j) ~~The state board, after any necessary hearing, may prescribe~~
- 2 ~~waste discharge requirements in accordance with this section.~~

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